IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 158 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JAYAMBEY PETROLIUM SERVICES - Petitioner(s)
Versus
DIST. COLLECTOR & 1 - Respondent(s)

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Appearance :
MR BA SURTI for Petitioner(s) : 1,
MR KP RAVAL AGP for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 25/06/2007

ORAL JUDGMENT

1. By way of present petition, the petitioner has

prayed for quashing and setting aside the notice dated 04.08.1993 and orders dated 15.10.1993 and 20.12.1995.

2. The brief facts of the case are that, in the inspection carried out by the Civil Supplies Officer at the premises of the petitioner on 16.04.1993, it was found density in the Tank No.2, which contains diesel and the petitioner did not keep sale-bills regularly. Therefore, the Civil Supplies Officer submitted his report before the respondent no.1. In pursuance of that, the respondent no.1 issued show cause notice to the petitioner on 04.08.1993. The petitioner gave reply to the said show cause notice. The respondent No.1 ordered confiscation of the quantity for the price of Rs.68,509/- by order dated 15.10.1993.

3. The aggrieved petitioner by the aforesaid order, preferred appeal under Sec.6-C of the Act before respondent No.2. The respondent No.2, however, confirmed the order of the respondent No.1 vide order dated 20.12.1995. Hence, the present petition.

4. It has been argued by the learned counsel for the petitioner, Mr.Surti that the impugned notice and impugned orders are illegal and bad in law. The learned counsel has also placed reliance upon the

judgment and order passed by this Court in the case of Devikadevi V/s. State of Gujarat reported in 1983(I) GLR 215. Learned counsel for the petitioner has also raised following points :-

(1) Though there is difference of only 0.0010, permissible limit is 0.0030;

(2) That no procedure was followed and

(3) No documents to show that the permissible limit is 0.0030, whereas the difference of density was 0.0040.

After raising aforesaid points, learned counsel for the petitioner, Mr.Surti submitted that 100 confiscation is not just and proper and, hence, it is requested that the impugned notice and impugned orders are required to be quashed and set aside and penalty may be reduced.

5. Mr.Raval, learned Assistant Government Pleader, who appears on behalf of the respondents took us through the reasoning of the both the impugned orders and submitted that no interference is called for. Mr.Raval has, therefore, urged that the present petition deserves to be dismissed.

6. I have heard learned counsel appearing for the respective parties and also gone through the record of the case. The first contention is devoid of any reason and, hence, deserves to be rejected. As

other two contentions were not raised before the lower Court, I am not dealing with the same at this stage. In my view, other two contentions deserve consideration.

7. In view of the aforesaid facts and circumstance, the petition is partly allowed and the penalty is reduced to 40%. Rule is made absolute to the aforesaid extent with no order as to costs.

(K.S. JHAVERI, J.)

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